



## United States Department of State

*Bureau of Human Resources  
Office of Retirement  
Room H-620, SA-1  
Washington, D.C. 20037*

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### POST-GOVERNMENT EMPLOYMENT RESTRICTIONS AND CONFLICTS OF INTEREST

All employees should be familiar with their responsibilities for avoiding actual or apparent conflicts of interest, particularly in connection with negotiating and accepting offers of employment outside the Government. While many of these requirements apply to all employees, certain ones apply only to those at senior levels. This memorandum highlights the most important areas of general concern, but does not discuss stringent requirements applicable to procurement officials and cabinet heads. This memorandum is a summary, not an exhaustive statement of relevant law.

These rules are complicated. Do not be afraid to consult the Office of the Legal Adviser with specific questions that may arise as you review these materials. Ethics attorneys may be reached by fax at (202)-647-6794, by e-mail on both the classified and unclassified (intranet) systems at "Legal-L-Ethics-Attorneys" or, in an emergency, by phone at (202)-647-4646. Additional materials expanding on this guidance are available from the Office of the Legal Adviser, Ethics Office (L/Ethics), Room 5425.

#### Before You Leave Government – Negotiating for Employment

Under the relevant criminal law (18 U.S.C. § 208), a government official may not participate personally and substantially in any particular matter in which to his or her knowledge "any person or organization with whom he is negotiating or has any arrangement concerning prospective employment" has a financial interest.

You may negotiate with prospective employers who have business before the Department, but you must immediately cease involvement in any particular matters that would have a direct and predictable effect upon the prospective employer's financial interest. If you begin to discuss possible employment with anyone who could be affected by matters under your responsibility, you should (1) ensure that such matters are handled by others within your office, and (2) notify your superiors (or, in the case of the most senior employees, your deputies) that you will not participate in any particular matter relating to that prospective employer. You should err on the side of caution and ensure that your recusal is broad enough to shield you from all official matters that a reasonable person could conclude may affect your prospective employer. You should discuss the proper scope of your recusal with the Ethics Office in the Office of the Legal Adviser. For your protection, you should recuse yourself in writing and send a copy to the Legal Adviser's Office (L/Ethics, Room 5425).

Employees often ask what triggers the requirement for recusal, e.g., what constitutes a "negotiation" for future employment. As soon as either party – you or a prospective employer – has communicated concerning possible future employment, you should be conservative (unless you receive advice from L to the contrary) and recuse yourself until all discussions of prospective employment are definitively terminated. If you quickly and definitively turn down an overture, you need not submit a written recusal memorandum.

A copy of the applicable regulations is Attachment A, and a sample recusal letter is Attachment B.

### After You Leave Government – Employment Restrictions

Section 207 of Title 18 (Attachment C), a criminal statute, imposes restrictions on the post-government employment activities of former government employees. Three restrictions, commencing upon one's termination of government service, are applicable under section 207 to all former employees:

- A lifetime ban on representing any other person before any U.S. department, agency, or court in any particular matter involving specific parties (e.g., a contract, procurement, claim, litigation, investigation or negotiation) in which the United States is a party or has a direct and substantial interest and in which the employee participated personally and substantially as a government employee (18 U.S.C. § 207(a)(1)).
- A two-year ban on representing any other person before any U.S. department, agency, or court in any particular matter involving specific parties in which the United States is a party or has a direct and substantial interest and which was actually pending under the employee's "official responsibility" (e.g., a contract handled by a subordinate without the employee's direct involvement) during the employee's last year of government service (18 U.S.C. § 207(a)(2)).
- A one-year ban on representing, aiding, or advising any other person on the basis of certain privileged material about an ongoing trade or treaty negotiation in which the employee participated personally and substantially during the employee's last year of government service. Only trade negotiations conducted under Section 1102 ("fast track" authority) of the Omnibus Trade and Competitiveness Act of 1988 are covered by this prohibition. Only negotiations of international agreements that will be sent to the Senate for its advice and consent are considered treaties for purpose of the Act. In either case, the negotiations must have been "ongoing" both at the time of the former employee's participation and at the time of the post-employment action. Privileged material is material which is classified or otherwise exempt from disclosure under the Freedom of Information Act (18 U.S.C. § 207(b)).

Two additional restrictions under section 207 apply only to “senior employees,” generally defined as anyone in a position for which basic pay (excluding locality pay) is equivalent to level 5 of the Senior Executive Service or higher (currently \$125,700, as of January 14, 2001). The restrictions for “senior employees” are measured from the date on which the employee ceases to be a senior employee.

- A one-year ban on representing, aiding, or advising a foreign government or foreign political party with the intent to influence a decision of an employee of a U.S. department or agency. Generally, representation of, or aid or advice to, a foreign commercial corporation is not barred (18 U.S.C. § 207(f)).
- A one-year ban on any communication to or appearance before a Department official on any matter on which official action is sought on behalf of any other person, regardless of the former employee’s prior involvement in the matter. This restriction, the so-called “one-year cooling-off period,” broadly restricts business contacts with the former agency, including contacts relating to policy, legislation, personnel decisions and other pending substantive matters (18 U.S.C. § 207(c)).

There are certain exceptions to section 207. For example, former senior employees are exempted from the one-year cooling off period if they are employed by State or local governments, accredited institutions of higher education, or certain non-profit hospitals or medical research organizations. The one-year cooling-off period also does not apply to communications or appearances by former senior employees on behalf of candidates for Federal or State office or for an authorized campaign committee or political party. In addition, none of the restrictions outlined above limit former employees from representing, aiding or advising an international organization in which the United States participates, if the Secretary of State certifies in advance that such activity is in the interest of the U.S.

Several points merit emphasis. First, the lifetime and two-year restrictions are focused on “particular matters involving specific parties.” These restrictions are aimed at discrete transactions with identifiable parties, in which U.S. departments or agencies are involved, and would likely cover transactions such as a contract for word processing equipment or security services, an employee grievance, an application for a munitions control license, a private claim against a foreign government, and a visa application. These restrictions are not usually aimed at involvement in broad policy issues directed to a large and diverse group of individuals or entities, such as U.S. foreign policy in Africa or foreign aid legislation. (Note that treaty negotiations may sometimes be treated as particular matters involving specific parties. If you were involved in treaty negotiations you should consult with L/Ethics about the potential impact on your post-government employment restrictions.)

Second, the restrictions other than the trade or treaty or foreign entity restrictions limit representational contacts with the U.S. Government. Representational contacts include not only outright lobbying, but also formal and informal appearances and written or oral communications intended to influence government actions.

Third, with the exception of the one-year cooling-off period, the restrictions cover representational activities before any department, agency of the United States or the District of Columbia. The one-year cooling-off period goes only to contacts with the Department of State and at its diplomatic missions and its employees (including those detailed to other agencies).

Fourth, violation of any of the section 207 restrictions is a criminal offense. A violation of section 207 can be charged as a felony or a misdemeanor or brought as a civil action. Injunctive relief is also available. Maximum penalties for willful violations are five years in jail and a fine in the amount of \$50,000 or the amount of compensation received as a result of the illegal conduct, whichever is greater. The Department can also debar violators from appearing before the agency for five years.

### After You Leave Government – Other Restrictions

#### 1. Compensation for Outside Employment

You may not receive compensation from a private source for your services to the government (18 U.S.C. § 209). Nor may you generally be paid for services rendered by another (such as a future colleague) prior to the time you leave the government, if those services were rendered in connection with a particular matter in which the U.S. was a party or had a direct and substantial interest (18 U.S.C. § 203). Thus, if you later join a partnership or other profit-sharing enterprise, you should not participate in income generated from services of this type that were rendered while you were still a government employee.

#### 2. Confidential Information

You may not disclose to future employers or the public any classified or other non-public information acquired in the course of your official duties, without the specific prior authorization of the Department. You are not required to purge your mind of the experience and general knowledge gained during your time with the government, but must take care not to communicate confidential information to subsequent employers or colleagues.

#### 3. Financial Disclosure Statements

If you have been required to file an annual Executive Personnel Financial Disclosure Report (SF-278), you must file a termination report within 30 days after leaving government. The reporting period begins after the end of the period covered by the last-filed SF-278 (e.g., CY99 reporting period covered 1/99 – 12/99 and was filed by May 15, 2000) and ends on the termination date. If you terminate, for example, effective April 30, 2001, your termination SF-278 should cover January 1, 2000, through April 30, 2001 and should be submitted to L/Ethics/FD, Room 5425, by May 30, 2001.

Attachments:

- A. OGE Regulations (5 CFR Subpart F – Seeking Other Employment)
- B. Sample Recusal Memorandum
- C. 18 U.S.C. § 207

Doc. 89111

## ATTACHMENT A

## SUBPART F - SEEKING OTHER EMPLOYMENT

### § 2635.601 Overview.

This subpart contains a disqualification requirement that applies to employees when seeking employment with persons whose financial interests would be directly and predictably affected by particular matters in which the employees participate personally and substantially. Specifically, it addresses the requirement of 18 U.S.C. 208(a) that an employee disqualify himself from participation in any particular matter that will have a direct and predictable effect on the financial interests of a person "with whom he is negotiating or has any arrangement concerning prospective employment." See § 2635.402 and § 2640.103 of this chapter. Beyond this statutory requirement, it also addresses the issues of lack of impartiality that require disqualification from particular matters affecting the financial interests of a prospective employer when an employee's actions in seeking employment fall short of actual employment negotiations.

### § 2635.602 Applicability and related considerations.

To ensure that he does not violate 18 U.S.C. 208(a) or the principles of ethical conduct contained in § 2635.101(b), an employee who is seeking employment or who has an arrangement concerning prospective employment shall comply with the applicable disqualification requirements of §§ 2635.604 and 2635.606 if particular matters in which the employee will be participating personally and substantially would directly and predictably affect the financial interests of a prospective employer or of a person with whom he has an arrangement concerning prospective employment. Compliance with this subpart also will ensure that the employee does not violate subpart D or E of this part.

**Note:** An employee who is seeking employment with a person whose financial interests are not affected directly and predictably by particular matters in which he participates personally and substantially has no obligation under this subpart. An employee may, however, be subject to other statutes which impose requirements on employment contacts or discussions, such as 41 U.S.C. 423(c), applicable to agency officials involved in certain procurement matters.

#### (a) *Related employment restrictions—*

- (1) *Outside employment while a Federal employee.* An employee who is contemplating outside employment to be undertaken concurrently with his Federal employment must abide by any limitations applicable to his outside activities under subparts G and H of this part. He must also comply with any disqualification requirement that may be applicable under subpart D or E of this part as a result of his outside employment activities.
- (2) *Post-employment restrictions.* An employee who is contemplating employment to be undertaken following the termination of his Federal employment should consult an agency ethics official to obtain advice regarding any post-employment restrictions that

may be applicable. Regulations implementing the Governmentwide post-employment statute, 18 U.S.C. 207, are contained in parts 2637 and 2641 of this chapter. Employees are cautioned that they may be subject to additional statutory prohibitions on post-employment acceptance of compensation from contractors, such as 41 U.S.C. 423(d).

- (b) *Interview trips and entertainment.* Where a prospective employer who is a prohibited source as defined in § 2635.203(d) offers to reimburse an employee's travel expenses, or provide other reasonable amenities incident to employment discussions, the employee may accept such amenities in accordance with § 2635.204(e)(3).

### § 2635.603 Definitions.

For purposes of this subpart:

- (a) *Employment* means any form of non-Federal employment or business relationship involving the provision of personal services by the employee, whether to be undertaken at the same time as or subsequent to Federal employment. It includes but is not limited to personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner or trustee.

*Example 1: An employee of the Bureau of Indian Affairs who has announced her intention to retire is approached by tribal representatives concerning a possible consulting contract with the tribe. The independent contractual relationship the tribe wishes to negotiate is employment for purposes of this subpart.*

*Example 2: An employee of the Department of Health and Human Services is invited to a meeting with officials of a nonprofit corporation to discuss the possibility of his serving as a member of the corporation's board of directors. Service, with or without compensation, as a member of the board of directors constitutes employment for purposes of this subpart.*

- (b) An employee is seeking employment once he has begun seeking employment within the meaning of paragraph (b)(1) of this section and until he is no longer seeking employment within the meaning of paragraph (b)(2) of this section.
- (1) An employee has begun seeking employment if he has directly or indirectly:
- (i) Engaged in negotiations for employment with any person. For these purposes, as for 18 U.S.C. 208(a), the term negotiations means discussion or communication with another person, or such person's agent or intermediary, mutually conducted with a view toward reaching an agreement regarding possible employment with that person. The term is not limited to discussions of specific terms and conditions of employment in a specific position;

- (ii) Made an unsolicited communication to any person, or such person's agent or intermediary, regarding possible employment with that person. However, the employee has not begun seeking employment if that communication was:
    - (A) For the sole purpose of requesting a job application; or
    - (B) For the purpose of submitting a resume or other employment proposal to a person affected by the performance or nonperformance of the employee's duties only as part of an industry or other discrete class. The employee will be considered to have begun seeking employment upon receipt of any response indicating an interest in employment discussions; or
  - (iii) Made a response other than rejection to an unsolicited communication from any person, or such person's agent or intermediary, regarding possible employment with that person.
- (2) An employee is no longer seeking employment when:
- (i) The employee or the prospective employer rejects the possibility of employment and all discussions of possible employment have terminated; or
  - (ii) Two months have transpired after the employee's dispatch of an unsolicited resume or employment proposal, provided the employee has received no indication of interest in employment discussions from the prospective employer.
- (3) For purposes of this definition, a response that defers discussions until the foreseeable future does not constitute rejection of an unsolicited employment overture, proposal, or resume nor rejection of a prospective employment possibility.

*Example 1: An employee of the Health Care Financing Administration is complimented on her work by an official of a State Health Department who asks her to call if she is ever interested in leaving Federal service. The employee explains to the State official that she is very happy with her job at HCFA and is not interested in another job. She thanks him for his compliment regarding her work and adds that she'll remember his interest if she ever decides to leave the Government. The employee has rejected the unsolicited employment overture and has not begun seeking employment.*

*Example 2: The employee in the preceding example responds by stating that she cannot discuss future employment while she is working on a project affecting the State's health care funding but would like to discuss employment with the State when the project is completed. Because the employee has merely deferred employment discussions until the foreseeable future, she has begun seeking employment with the State Health Department.*

Example 3: An employee of the Defense Contract Audit Agency is auditing the overhead accounts of an Army contractor. While at the contractor's headquarters, the head of the contractor's accounting division tells the employee that his division is thinking about hiring another accountant and asks whether the employee might be interested in leaving DCAA. The DCAA employee says he is interested in knowing what kind of work would be involved. They discuss the duties of the position the accounting division would like to fill and the DCAA employee's qualifications for the position. They do not discuss salary. The head of the division explains that he has not yet received authorization to fill the particular position and will get back to the employee when he obtains the necessary approval for additional staffing. The employee and the contractor's official have engaged in negotiations regarding possible employment. The employee has begun seeking employment with the Army contractor.

Example 4: An employee of the Occupational Safety and Health Administration helping to draft safety standards applicable to the textile industry has mailed his resume to 25 textile manufacturers. He has not begun seeking employment with any of the twenty-five. If he receives a response from one of the resume recipients indicating an interest in employment discussions, the employee will have begun seeking employment with the respondent at that time.

Example 5: A special Government employee of the Federal Deposit Insurance Corporation is serving on an advisory committee formed for the purpose of reviewing rules applicable to all member banks. She mails an unsolicited letter to a member bank offering her services as a contract consultant. She has not begun seeking employment with the bank until she receives some response indicating an interest in discussing her employment proposal. A letter merely acknowledging receipt of the proposal is not an indication of interest in employment discussions.

Example 6: A geologist employed by the U.S. Geological Survey has been working as a member of a team preparing the Government's case in an action brought by the Government against six oil companies. The geologist sends her resume to an oil company that is a named defendant in the action. The geologist has begun seeking employment with that oil company and will be seeking employment for two months from the date the resume was mailed. However, if she withdraws her application or is notified within the two-month period that her resume has been rejected, she will no longer be seeking employment with the oil company as of the date she makes such withdrawal or receives such notification.

- (c) *Prospective employer* means any person with whom the employee is seeking employment. Where contacts that constitute seeking employment are made by or with an agent or other intermediary, the term prospective employer includes:

- (1) A person who uses that agent or other intermediary for the purpose of seeking to establish an employment relationship with the employee if the agent identifies the prospective employer to the employee; and
- (2) A person contacted by the employee's agent or other intermediary for the purpose of seeking to establish an employment relationship if the agent identifies the prospective employer to the employee.

*Example 1: An employee of the Federal Aviation Administration has overall responsibility for airport safety inspections in a three-state area. She has retained an employment search firm to help her find another job. The search firm has just reported to the FAA employee that it has given her resume to and had promising discussions with two airport authorities within her jurisdiction. Even though the employee has not personally had employment discussions with either, each airport authority is her prospective employer. She began seeking employment with each upon learning its identity and that it has been given her resume.*

- (d) *Direct and predictable effect, particular matter, and personal and substantial* have the respective meanings set forth in § 2635.402(b)(1), (3) and (4).

#### **§ 2635.604 Disqualification while seeking employment.**

- (a) *Obligation to disqualify.* Unless the employee's participation is authorized in accordance with § 2635.605, the employee shall not participate personally and substantially in a particular matter that, to his knowledge, has a direct and predictable effect on the financial interests of a prospective employer with whom he is seeking employment within the meaning of § 2635.603(b). Disqualification is accomplished by not participating in the particular matter.
- (b) *Notification.* An employee who becomes aware of the need to disqualify himself from participation in a particular matter to which he has been assigned should notify the person responsible for his assignment. An employee who is responsible for his own assignment should take whatever steps are necessary to ensure that he does not participate personally and substantially in the matter from which he is disqualified. Appropriate oral or written notification of the employee's disqualification may be made to coworkers by the employee or a supervisor to ensure that the employee is not involved in a matter from which he is disqualified.
- (c) *Documentation.* An employee need not file a written disqualification statement unless he is required by part 2634 of this chapter to file written evidence of compliance with an ethics agreement with the Office of Government Ethics or is specifically asked by an agency ethics official or the person responsible for his assignment to file a written disqualification statement. However, an employee may elect to create a record of his actions by providing written notice to a supervisor or other appropriate official.

Example 1: An employee of the Department of Veterans Affairs is participating in the audit of a contract for laboratory support services. Before sending his resume to a lab which is a subcontractor under the VA contract, the employee should disqualify himself from participation in the audit. Since he cannot withdraw from participation in the contract audit without the approval of his supervisor, he should disclose his intentions to his supervisor in order that appropriate adjustments in his work assignments can be made.

Example 2: An employee of the Food and Drug Administration is contacted in writing by a pharmaceutical company concerning possible employment with the company. The employee is involved in testing a drug for which the company is seeking FDA approval. Before making a response that is not a rejection, the employee should disqualify himself from further participation in the testing. Where he has authority to ask his colleague to assume his testing responsibilities, he may accomplish his disqualification by transferring the work to that coworker. However, to ensure that his colleague and others with whom he had been working on the recommendations do not seek his advice regarding testing or otherwise involve him in the matter, it may be necessary for him to advise those individuals of his disqualification.

Example 3: The General Counsel of a regulatory agency wishes to engage in discussions regarding possible employment as corporate counsel of a regulated entity. Matters directly affecting the financial interests of the regulated entity are pending within the Office of General Counsel, but the General Counsel will not be called upon to act in any such matter because signature authority for that particular class of matters has been delegated to an Assistant General Counsel. Because the General Counsel is responsible for assigning work within the Office of General Counsel, he can in fact accomplish his disqualification by simply avoiding any involvement in matters affecting the regulated entity. However, because it is likely to be assumed by others that the General Counsel is involved in all matters within the cognizance of the Office of General Counsel, he would be wise to file a written disqualification statement with the Commissioners of the regulatory agency and provide his subordinates with written notification of his disqualification, or he may be specifically asked by an agency ethics official or the Commissioners to file a written disqualification statement.

Example 4: A scientist is employed by the National Science Foundation as a special Government employee to serve on a panel that reviews grant applications to fund research relating to deterioration of the ozone layer. She is discussing possible employment as a member of the faculty of a university that several years earlier received an NSF grant to study the effect of fluorocarbons, but has no grant application pending. As long as the university does not submit a new application for the panel's review, the employee would not have to take any action to effect disqualification.

- (d) *Agency determination of substantial conflict.* Where the agency determines that the employee's action in seeking employment with a particular person will require his disqualification from matters so central or critical to the performance of his official duties that the employee's ability to perform the duties of his position would be materially impaired, the agency may allow the

employee to take annual leave or leave without pay while seeking employment, or may take other appropriate administrative action.

**§ 2635.605 Waiver or authorization permitting participation while seeking employment.**

- (a) *Waiver.* Where, as defined in § 2635.603(b)(1)(i), an employee is engaged in discussions that constitute employment negotiations for purposes of 18 U.S.C. 208(a), the employee may participate personally and substantially in a particular matter that has a direct and predictable effect on the financial interests of a prospective employer only after receiving a written waiver issued under the authority of 18 U.S.C. 208(b)(1) or (b)(3). These waivers are described in § 2635.402(d). See also subpart C of part 2640 of this chapter. For certain employees, a regulatory exemption under the authority of 18 U.S.C. 208(b)(2) may also apply (see subpart B of part 2640 of this chapter).

*Example 1: An employee of the Department of Agriculture has had two telephone conversations with an orange grower regarding possible employment. They have discussed the employee's qualifications for a particular position with the grower, but have not yet discussed salary or other specific terms of employment. The employee is negotiating for employment within the meaning of 18 U.S.C. 208(a) and § 2635.603(b)(1)(i). In the absence of a written waiver issued under 18 U.S.C. 208(b)(1), she may not take official action on a complaint filed by a competitor alleging that the grower has shipped oranges in violation of applicable quotas.*

- (b) *Authorization by agency designee.* Where an employee is seeking employment within the meaning of § 2635.603(b)(1)(ii) or (iii), a reasonable person would be likely to question his impartiality if he were to participate personally and substantially in a particular matter that has a direct and predictable effect on the financial interests of any such prospective employer. The employee may participate in such matters only where the agency designee has authorized his participation in accordance with the standards set forth in § 2635.502(d).

*Example 1: Within the past month, an employee of the Education Department mailed her resume to a university. She is thus seeking employment with the university within the meaning of § 2635.603(b)(1)(ii) even though she has received no reply. In the absence of specific authorization by the agency designee in accordance with § 2635.502(d), she may not participate in an assignment to review a grant application submitted by the university.*

**§ 2635.606 Disqualification based on an arrangement concerning prospective employment or otherwise after negotiations.**

- (a) *Employment or arrangement concerning employment.* An employee shall be disqualified from participating personally and substantially in a particular matter that has a direct and predictable effect on the financial interests of the person by whom he is employed or with whom he has an arrangement concerning future employment, unless authorized to participate in the matter by

a written waiver issued under the authority of 18 U.S.C. 208(b)(1) or (b)(3), or by a regulatory exemption under the authority of 18 U.S.C. 208(b)(2). These waivers and exemptions are described in § 2635.402(d). See also subparts B and C of part 2640 of this chapter.

*Example 1: A military officer has accepted a job with a defense contractor to begin in six months, after his retirement from military service. During the period that he remains with the Government, the officer may not participate in the administration of a contract with that particular defense contractor unless he has received a written waiver under the authority of 18 U.S.C. 208(b)(1).*

*Example 2: An accountant has just been offered a job with the Comptroller of the Currency which involves a two-year limited appointment. Her private employer, a large corporation, believes the job will enhance her skills and has agreed to give her a two-year unpaid leave of absence at the end of which she has agreed to return to work for the corporation. During the two-year period she is to be a COC employee, the accountant will have an arrangement concerning future employment with the corporation that will require her disqualification from participation in any particular matter that will have a direct and predictable effect on the corporation's financial interests.*

- (b) *Offer rejected or not made.* The agency designee for the purpose of § 2635.502(c) may, in an appropriate case, determine that an employee not covered by the preceding paragraph who has sought but is no longer seeking employment nevertheless shall be subject to a period of disqualification upon the conclusion of employment negotiations. Any such determination shall be based on a consideration of all the relevant factors, including those listed in § 2635.502(d), and a determination that the concern that a reasonable person may question the integrity of the agency's decision making process outweighs the Government's interest in the employee's participation in the particular matter.

*Example 1: An employee of the Securities and Exchange Commission was relieved of responsibility for an investigation of a broker-dealer while seeking employment with the law firm representing the broker-dealer in that matter. The firm did not offer her the partnership position she sought. Even though she is no longer seeking employment with the firm, she may continue to be disqualified from participating in the investigation based on a determination by the agency designee that the concern that a reasonable person might question whether, in view of the history of the employment negotiations, she could act impartially in the matter outweighs the Government's interest in her participation.*

## ATTACHMENT B

(This is a model memorandum for the recusal notification that an employee should submit to his/her superior or deputy when seeking employment outside the U.S. Government. Only Presidential appointees who receive the advice and consent of the Senate need to submit a copy to L/Ethics.)

( date )

MEMORANDUM

TO: DCM/[Bureau Designation] - \_\_\_\_\_

FROM: ( name )

SUBJECT: Recusal Undertaking

I have recused myself until further notice from participation in any particular matter that has a direct and predictable effect upon the financial interest of (name of prospective employer(s)). If any such matter should come before me, I shall ask [my deputy/my supervisor/another colleague] or another official in my [office/mission] to handle the matter without recourse to me.

cc: L/Ethics

## ATTACHMENT C

Citation/Title

18 USCA § 207, Restrictions on former officers, employees, and elected officials of the executive and legislative branches

\*128069 18 U.S.C.A. § 207

UNITED STATES CODE ANNOTATED  
TITLE 18. CRIMES AND CRIMINAL PROCEDURE  
PART I—CRIMES  
CHAPTER 11—BRIBERY, GRAFT, AND CONFLICTS OF INTEREST

*Current through P.L. 106-259, approved 8-9-2000*

**§ 207. Restrictions on former officers, employees, and elected officials of the executive and legislative branches**

(a) Restrictions on all officers and employees of the executive branch and certain other agencies.--

(1) Permanent restrictions on representation on particular matters.--Any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including any independent agency of the United States), or of the District of Columbia, and who, after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia) in connection with a particular matter--

(A) in which the United States or the District of Columbia is a party or has a direct and substantial interest,

(B) in which the person participated personally and substantially as such officer or employee, and

(C) which involved a specific party or specific parties at the time of such participation,

shall be punished as provided in section 216 of this title.

(2) Two-year restrictions concerning particular matters under official responsibility.--Any person subject to the restrictions contained in paragraph (1) who, within 2 years after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia), in connection with a particular matter--

\*128070 (A) in which the United States or the District of Columbia is a party or has a direct and substantial interest,

(B) which such person knows or reasonably should know was actually pending under his or her official responsibility as such officer or employee within a period of 1 year before the termination of his or her service or employment with the United States or the District of Columbia, and

(C) which involved a specific party or specific parties at the time it was so pending,

shall be punished as provided in section 216 of this title.

(3) Clarification of restrictions.--The restrictions contained in paragraphs (1) and (2) shall apply--

(A) in the case of an officer or employee of the executive branch of the United States (including any independent agency), only with respect to communications to or appearances before any officer or employee of any department, agency, court, or court-martial of the United States on behalf of any other person (except the United States), and only with respect to a matter in which the United States is a party or has a direct and substantial interest; and

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18 USCA § 207, Restrictions on former officers, employees, and elected officials of the executive and legislative branches

(B) in the case of an officer or employee of the District of Columbia, only with respect to communications to or appearances before any officer or employee of any department, agency, or court of the District of Columbia on behalf of any other person (except the District of Columbia), and only with respect to a matter in which the District of Columbia is a party or has a direct and substantial interest.

(b) One-year restrictions on aiding or advising.--

(1) In general.--Any person who is a former officer or employee of the executive branch of the United States (including any independent agency) and is subject to the restrictions contained in subsection (a)(1), or any person who is a former officer or employee of the legislative branch or a former Member of Congress, who personally and substantially participated in any ongoing trade or treaty negotiation on behalf of the United States within the 1-year period preceding the date on which his or her service or employment with the United States terminated, and who had access to information concerning such trade or treaty negotiation which is exempt from disclosure under section 552 of title 5, which is so designated by the appropriate department or agency, and which the person knew or should have known was so designated, shall not, on the basis of that information, knowingly represent, aid, or advise any other person (except the United States) concerning such ongoing trade or treaty negotiation for a period of 1 year after his or her service or employment with the United States terminates. Any person who violates this subsection shall be punished as provided in section 216 of this title.

\*128071 (2) Definition.--For purposes of this paragraph--

(A) the term "trade negotiation" means negotiations which the President determines to undertake to enter into a trade agreement pursuant to section 1102 of the Omnibus Trade and Competitiveness Act of 1988, and does not include any action taken before that determination is made; and

(B) the term "treaty" means an international agreement made by the President that requires the advice and consent of the Senate.

(c) One-year restrictions on certain senior personnel of the executive branch and independent agencies.--

(1) Restrictions.--In addition to the restrictions set forth in subsections (a) and (b), any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including an independent agency), who is referred to in paragraph (2), and who, within 1 year after the termination of his or her service or employment as such officer or employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of the department or agency in which such person served within 1 year before such termination, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency, shall be punished as provided in section 216 of this title.

(2) Persons to whom restrictions apply.--(A) Paragraph (1) shall apply to a person (other than a person subject to the restrictions of subsection (d))--

(i) employed at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5,

(ii) employed in a position which is not referred to in clause (i) and for which the basic rate of pay, exclusive of any locality-based pay adjustment under section 5302 of title 5 (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the rate of basic pay payable for level 5 of the Senior Executive Service,

(iii) appointed by the President to a position under section 105(a)(2)(B) of title 3 or by the Vice President to a position under section 106(a)(1)(B) of title 3, or

(iv) employed in a position which is held by an active duty commissioned officer of the uniformed services who is serving in a grade or rank for which the pay grade (as specified in section 201 of title 37) is pay grade O-7 or above.

\*128072 (B) Paragraph (1) shall not apply to a special Government employee who serves less than 60 days in the 1-year period before his or her service or employment as such employee terminates.

(C) At the request of a department or agency, the Director of the Office of Government Ethics may waive the restrictions contained in paragraph (1) with respect to any position, or category of positions, referred to in clause (ii) or (iv) of subparagraph (A), in such department or agency if the Director determines that--

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- (i) the imposition of the restrictions with respect to such position or positions would create an undue hardship on the department or agency in obtaining qualified personnel to fill such position or positions, and
  - (ii) granting the waiver would not create the potential for use of undue influence or unfair advantage.
- (d) Restrictions on very senior personnel of the executive branch and independent agencies.--
- (1) Restrictions.--In addition to the restrictions set forth in subsections (a) and (b), any person who--
    - (A) serves in the position of Vice President of the United States,
    - (B) is employed in a position in the executive branch of the United States (including any independent agency) at a rate of pay payable for level I of the Executive Schedule or employed in a position in the Executive Office of the President at a rate of pay payable for level II of the Executive Schedule, or
    - (C) is appointed by the President to a position under section 105(a)(2)(A) of title 3 or by the Vice President to a position under section 106(a)(1)(A) of title 3,
 and who, within 1 year after the termination of that person's service in that position, knowingly makes, with the intent to influence, any communication to or appearance before any person described in paragraph (2), on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of the executive branch of the United States, shall be punished as provided in section 216 of this title.
  - (2) Persons who may not be contacted.--The persons referred to in paragraph (1) with respect to appearances or communications by a person in a position described in subparagraph (A), (B), or (C) of paragraph (1) are--
    - (A) any officer or employee of any department or agency in which such person served in such position within a period of 1 year before such person's service or employment with the United States Government terminated, and
    - \*128073 (B) any person appointed to a position in the executive branch which is listed in section 5312, 5313, 5314, 5315, or 5316 of title 5.
- (e) Restrictions on Members of Congress and officers and employees of the legislative branch.--
- (1) Members of Congress and elected officers.--(A) Any person who is a Member of Congress or an elected officer of either House of Congress and who, within 1 year after that person leaves office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B) or (C), on behalf of any other person (except the United States) in connection with any matter on which such former Member of Congress or elected officer seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.
    - (B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former Member of Congress are any Member, officer, or employee of either House of Congress, and any employee of any other legislative office of the Congress.
    - (C) The persons referred to in subparagraph (A) with respect to appearances or communications by a former elected officer are any Member, officer, or employee of the House of Congress in which the elected officer served.
  - (2) Personal staff.--(A) Any person who is an employee of a Senator or an employee of a Member of the House of Representatives and who, within 1 year after the termination of that employment, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.
    - (B) The persons referred to in subparagraph (A) with respect to appearances or communications by a person who is a former employee are the following:
      - (i) the Senator or Member of the House of Representatives for whom that person was an employee; and
      - (ii) any employee of that Senator or Member of the House of Representatives.
  - (3) Committee staff.--Any person who is an employee of a committee of Congress and who, within 1 year after the termination of that person's employment on such committee, knowingly makes, with the intent to influence, any communication to or appearance before any person who is a Member or an employee of that committee or who was a Member

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of the committee in the year immediately prior to the termination of such person's employment by the committee, on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

**\*128074 (4) Leadership staff.**--(A) Any person who is an employee on the leadership staff of the House of Representatives or an employee on the leadership staff of the Senate and who, within 1 year after the termination of that person's employment on such staff, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are the following:

(i) in the case of a former employee on the leadership staff of the House of Representatives, those persons are any Member of the leadership of the House of Representatives and any employee on the leadership staff of the House of Representatives; and

(ii) in the case of a former employee on the leadership staff of the Senate, those persons are any Member of the leadership of the Senate and any employee on the leadership staff of the Senate.

**(5) Other legislative offices.**--(A) Any person who is an employee of any other legislative office of the Congress and who, within 1 year after the termination of that person's employment in such office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by any officer or employee of such office, in his or her official capacity, shall be punished as provided in section 216 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are the employees and officers of the former legislative office of the Congress of the former employee.

**(6) Limitation on restrictions.**--(A) The restrictions contained in paragraphs (2), (3), and (4) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was paid a rate of basic pay equal to or greater than an amount which is 75 percent of the basic rate of pay payable for a Member of the House of Congress in which such employee was employed.

(B) The restrictions contained in paragraph (5) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was employed in a position for which the rate of basic pay, exclusive of any locality-based pay adjustment under section 5302 of title 5 (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the basic rate of pay payable for level 5 of the Senior Executive Service.

**\*128075 (7) Definitions.**--As used in this subsection--

(A) the term "committee of Congress" includes standing committees, joint committees, and select committees;

(B) a person is an employee of a House of Congress if that person is an employee of the Senate or an employee of the House of Representatives;

(C) the term "employee of the House of Representatives" means an employee of a Member of the House of Representatives, an employee of a committee of the House of Representatives, an employee of a joint committee of the Congress whose pay is disbursed by the Clerk of the House of Representatives, and an employee on the leadership staff of the House of Representatives;

(D) the term "employee of the Senate" means an employee of a Senator, an employee of a committee of the Senate, an employee of a joint committee of the Congress whose pay is disbursed by the Secretary of the Senate, and an employee on the leadership staff of the Senate;

(E) a person is an employee of a Member of the House of Representatives if that person is an employee of a Member of the House of Representatives under the clerk hire allowance;

(F) a person is an employee of a Senator if that person is an employee in a position in the office of a Senator;

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(G) the term "employee of any other legislative office of the Congress" means an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, the Copyright Royalty Tribunal, the United States Capitol Police, and any other agency, entity, or office in the legislative branch not covered by paragraph (1), (2), (3), or (4) of this subsection;

(H) the term "employee on the leadership staff of the House of Representatives" means an employee of the office of a Member of the leadership of the House of Representatives described in subparagraph (L), and any elected minority employee of the House of Representatives;

(I) the term "employee on the leadership staff of the Senate" means an employee of the office of a Member of the leadership of the Senate described in subparagraph (M);

(J) the term "Member of Congress" means a Senator or a Member of the House of Representatives;

\*128076 (K) the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress;

(L) the term "Member of the leadership of the House of Representatives" means the Speaker, majority leader, minority leader, majority whip, minority whip, chief deputy majority whip, chief deputy minority whip, chairman of the Democratic Steering Committee, chairman and vice chairman of the Democratic Caucus, chairman, vice chairman, and secretary of the Republican Conference, chairman of the Republican Research Committee, and chairman of the Republican Policy Committee, of the House of Representatives (or any similar position created on or after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989);

(M) the term "Member of the leadership of the Senate" means the Vice President, and the President pro tempore, Deputy President pro tempore, majority leader, minority leader, majority whip, minority whip, chairman and secretary of the Conference of the Majority, chairman and secretary of the Conference of the Minority, chairman and co-chairman of the Majority Policy Committee, and chairman of the Minority Policy Committee, of the Senate (or any similar position created on or after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989).

(f) Restrictions relating to foreign entities.--

(1) Restrictions.--Any person who is subject to the restrictions contained in subsections (c), (d), or (e) and who knowingly, within 1 year after leaving the position, office, or employment referred to in such subsection--

(A) represents a foreign entity before any officer or employee of any department or agency of the United States with the intent to influence a decision of such officer or employee in carrying out his or her official duties, or

(B) aids or advises a foreign entity with the intent to influence a decision of any officer or employee of any department or agency of the United States, in carrying out his or her official duties,

shall be punished as provided in section 216 of this title.

(2) Special rule for Trade Representative.--With respect to a person who is the United States Trade Representative or Deputy United States Trade Representative, the restrictions described in paragraph (1) shall apply to representing, aiding, or advising foreign entities at any time after the termination of that person's service as the United States Trade Representative.

\*128077 (3) Definition.--For purposes of this subsection, the term "foreign entity" means the government of a foreign country as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, or a foreign political party as defined in section 1(f) of that Act.

(g) Special rules for detailees.--For purposes of this section, a person who is detailed from one department, agency, or other entity to another department, agency, or other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies, or such entities.

(h) Designations of separate statutory agencies and bureaus.--

(1) Designations.--For purposes of subsection (c) and except as provided in paragraph (2), whenever the Director of the Office of Government Ethics determines that an agency or bureau within a department or agency in the executive branch exercises functions which are distinct and separate from the remaining functions of the department or agency and that there exists no potential for use of undue influence or unfair advantage based on past Government service, the Director shall by rule

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designate such agency or bureau as a separate department or agency. On an annual basis the Director of the Office of Government Ethics shall review the designations and determinations made under this subparagraph and, in consultation with the department or agency concerned, make such additions and deletions as are necessary. Departments and agencies shall cooperate to the fullest extent with the Director of the Office of Government Ethics in the exercise of his or her responsibilities under this paragraph.

(2) Inapplicability of designations.--No agency or bureau within the Executive Office of the President may be designated under paragraph (1) as a separate department or agency. No designation under paragraph (1) shall apply to persons referred to in subsection (c)(2)(A)(i) or (iii).

(i) Definitions.--For purposes of this section--

(1) the term "officer or employee", when used to describe the person to whom a communication is made or before whom an appearance is made, with the intent to influence, shall include--

(A) in subsections (a), (c), and (d), the President and the Vice President; and

(B) in subsection (f), the President, the Vice President, and Members of Congress;

(2) the term "participated" means an action taken as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other such action; and

\*128078 (3) the term "particular matter" includes any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding.

(j) Exceptions.--

(1) Official government duties.--The restrictions contained in this section shall not apply to acts done in carrying out official duties on behalf of the United States or the District of Columbia or as an elected official of a State or local government.

(2) State and local governments and institutions, hospitals, and organizations.--The restrictions contained in subsections (c), (d), and (e) shall not apply to acts done in carrying out official duties as an employee of--

(A) an agency or instrumentality of a State or local government if the appearance, communication, or representation is on behalf of such government, or

(B) an accredited, degree-granting institution of higher education, as defined in section 101 of the Higher Education Act of 1965 [20 U.S.C.A. § 1001], or a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C.A. § 501(c)(3)], if the appearance, communication, or representation is on behalf of such institution, hospital, or organization.

(3) International organizations.--The restrictions contained in this section shall not apply to an appearance or communication on behalf of, or advice or aid to, an international organization in which the United States participates, if the Secretary of State certifies in advance that such activity is in the interests of the United States.

(4) Special knowledge.--The restrictions contained in subsections (c), (d), and (e) shall not prevent an individual from making or providing a statement, which is based on the individual's own special knowledge in the particular area that is the subject of the statement, if no compensation is thereby received.

(5) Exception for scientific or technological information.--The restrictions contained in subsections (a), (c), and (d) shall not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information, if such communications are made under procedures acceptable to the department or agency concerned or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register, that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee. For purposes of this paragraph, the term "officer or employee" includes the Vice President.

\*128079 (6) Exception for testimony.--Nothing in this section shall prevent an individual from giving testimony under oath, or from making statements required to be made under penalty of perjury. Notwithstanding the preceding sentence--

(A) a former officer or employee of the executive branch of the United States (including any independent agency) who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except

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pursuant to court order, serve as an expert witness for any other person (except the United States) in that matter; and

(B) a former officer or employee of the District of Columbia who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the District of Columbia) in that matter.

(7) Political parties and campaign committees.--(A) Except as provided in subparagraph (B), the restrictions contained in subsections (c), (d), and (e) shall not apply to a communication or appearance made solely on behalf of a candidate in his or her capacity as a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party.

(B) Subparagraph (A) shall not apply to--

(i) any communication to, or appearance before, the Federal Election Commission by a former officer or employee of the Federal Election Commission; or

(ii) a communication or appearance made by a person who is subject to the restrictions contained in subsections [FN1] (c), (d), or (e) if, at the time of the communication or appearance, the person is employed by a person or entity other than--

(I) a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party; or

(II) a person or entity who represents, aids, or advises only persons or entities described in subclause (I).

(C) For purposes of this paragraph--

(i) the term "candidate" means any person who seeks nomination for election, or election, to Federal or State office or who has authorized others to explore on his or her behalf the possibility of seeking nomination for election, or election, to Federal or State office;

(ii) the term "authorized committee" means any political committee designated in writing by a candidate as authorized to receive contributions or make expenditures to promote the nomination for election, or the election, of such candidate, or to explore the possibility of seeking nomination for election, or the election, of such candidate, except that a political committee that receives contributions or makes expenditures to promote more than 1 candidate may not be designated as an authorized committee for purposes of subparagraph (A);

\*128080 (iii) the term "national committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level;

(iv) the term "national Federal campaign committee" means an organization that, by virtue of the bylaws of a political party, is established primarily for the purpose of providing assistance, at the national level, to candidates nominated by that party for election to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(v) the term "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level;

(vi) the term "political party" means an association, committee, or organization that nominates a candidate for election to any Federal or State elected office whose name appears on the election ballot as the candidate of such association, committee, or organization; and

(vii) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(k)(1)(A) The President may grant a waiver of a restriction imposed by this section to any officer or employee described in paragraph (2) if the President determines and certifies in writing that it is in the public interest to grant the waiver and that the services of the officer or employee are critically needed for the benefit of the Federal Government. Not more than 25 officers and employees currently employed by the Federal Government at any one time may have been granted waivers under this paragraph.

(B)(i) A waiver granted under this paragraph to any person shall apply only with respect to activities engaged in by that person after that person's Federal Government employment is terminated and only to that person's employment at a Government-owned, contractor operated entity with which the person served as an officer or employee immediately before the person's Federal Government employment began.

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(ii) Notwithstanding clause (i), a waiver granted under this paragraph to any person who was an officer or employee of Lawrence Livermore National Laboratory, Los Alamos National Laboratory, or Sandia National Laboratory immediately before the person's Federal Government employment began shall apply to that person's employment by any such national laboratory after the person's employment by the Federal Government is terminated.

\*128081 (2) Waivers under paragraph (1) may be granted only to civilian officers and employees of the executive branch, other than officers and employees in the Executive Office of the President.

(3) A certification under paragraph (1) shall take effect upon its publication in the Federal Register and shall identify--

- (A) the officer or employee covered by the waiver by name and by position, and
- (B) the reasons for granting the waiver.

A copy of the certification shall also be provided to the Director of the Office of Government Ethics.

(4) The President may not delegate the authority provided by this subsection.

(5)(A) Each person granted a waiver under this subsection shall prepare reports, in accordance with subparagraph (B), stating whether the person has engaged in activities otherwise prohibited by this section for each six-month period described in subparagraph (B), and if so, what those activities were.

(B) A report under subparagraph (A) shall cover each six-month period beginning on the date of the termination of the person's Federal Government employment (with respect to which the waiver under this subsection was granted) and ending two years after that date. Such report shall be filed with the President and the Director of the Office of Government Ethics not later than 60 days after the end of the six-month period covered by the report. All reports filed with the Director under this paragraph shall be made available for public inspection and copying.

(C) If a person fails to file any report in accordance with subparagraphs (A) and (B), the President shall revoke the waiver and shall notify the person of the revocation. The revocation shall take effect upon the person's receipt of the notification and shall remain in effect until the report is filed.

(D) Any person who is granted a waiver under this subsection shall be ineligible for appointment in the civil service unless all reports required of such person by subparagraphs (A) and (B) have been filed.

(E) As used in this subsection, the term "civil service" has the meaning given that term in section 2101 of title 5.

#### CREDIT(S)

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